

## REMARKS

The Examiner objected to the drawings for failure to show the form (component 16) as described in the specification on page 4. Component 16 has now been added to the drawings.

The Examiner objected to claim 1, indicating that the language of claim 1 is inconsistent. Claim 1 has been amended to claim the entire concrete shoring apparatus.

Claims 3 and 7-9 were rejected under 35 U.S.C.112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. According to the Examiner, the applicant merely claimed desired results of the invention with no specific structure to attain these results.

According to MPEP Section 2173.05(g), there is nothing wrong with defining some part of an invention in functional terms. A functional limitation is often used in association with an element, ingredient, or step of a process to define a particular capability or purpose that is served by the recited element, ingredient or step. Functional language is acceptable when there are definite boundaries set on the patent protection sought or if basic structural attributes are defined. See *In re Barr*, 444 F.2d 588 (CCPA 1971); *In re Venezia*, 530 F.2d 956 (CCPA 1976).

In this instance, claims 3 and 7-9 all claim a load of up to 10,000 pounds per square inch that must be sustained by the shoring apparatus. In claim 3, the polymeric material that the annular ring members are made from must be able to sustain a load of up to 10,000 pounds per square inch. While applicant believes that the recitation of annular ring members comprised of polymeric material that can sustain a load of up to 10,000

pounds per square inch is acceptable language under MPEP 2173.05(g), claim 3 has been amended to depend on claim 2, which describes the various polymeric materials that the annular ring members can be made from. The annular rings, when made from one of the listed polymeric materials, can sustain a load of up to 10,000 pounds per square inch.

Similarly, claim 7 has been amended to depend on claim 6, which also describes the various polymeric materials that the annular ring members can be made from in an attempt to clarify the parameters of the claim. Claim 8, which depends on claim 7 also now describes the specific polymeric materials that the annular rings are made from.

Claim 9 has not been amended, as the claim recites two or more molybdenum disulphide filled nylon washers which reduce the force required to retract the nut under a load of up to about 10,000 pounds per square inch. This claim defines specific boundaries set on the patent protection sought in accordance with MPEP 2173.05(g).

The Examiner has rejected claims 1 and 2 as being anticipated by US. Patent No. 3,581,420 to Mollet III et al, stating that Mollet discloses a reduced friction coupling comprised of two annular rings made of a polymeric material.

Applicant respectfully requests that this rejection be reconsidered and withdrawn. The Mollet patent does not disclose every element of claim 1 or claim 2 of Applicant's invention, and thus does not anticipate either of these claims. Claims 1 and 2 claim "a first annular ring member . . . above the nut" and "a second annular ring member . . . above the first annular ring member." Figure 7 of the Mollet patent shows the rings 28 and 29 to be located below the nut. As the Mollet patent does not disclose rings located above the nut, as claimed in claims 1 and 2 of applicant's invention, the Mollet patent does not anticipate these claims.

In addition, the purpose of the claimed invention is not taught nor suggested by the Mollet patent. The purpose of the claimed invention is to provide a shoring post apparatus that includes two annular rings made from a polymeric material that reside above the nut, wherein the two annular polymeric rings relieve the load on the nut. This is not the case in the Mollet patent, which makes no reference to the purpose of the rings.

Claim 3 was rejected under 103(a) as being unpatentable over the Mollet reference. According to the Examiner, while Mollet does not specifically disclose the polymeric material being able to sustain a load of up to 10,000 psi, it would have been obvious to one skilled in the art to design washers capable of supporting the intended load of the system. Applicant respectfully disagrees with this rejection and asks that it be reconsidered and withdrawn.

As described above, the Mollet patent does not disclose the location of the washers as claimed in claim 3. In addition, the Mollet reference does not teach or suggest that the Mollet washers take the load off of the nut. It would not have been obvious for one skilled in the art to design washers capable of sustaining a load of up to 10,000 psi from the Mollet patent, as the washers in the Mollet patent are not designed to relieve the load on the nut.

Claims 4-8 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,982,364 to Horvarth in view of U.S. Patent No. 3,581,420 to Mollet III. Applicant respectfully disagrees with this rejection and asks that this rejection be reconsidered and withdrawn.

The Horvarth reference does not disclose a shoring apparatus that can be used for leveling under a load; the Horvarth floor supports are used for leveling under no load.

According to the Horvarth disclosure, each of the ground pads and anchor assemblies is adjustable for leveling the floor prior to assembling the floor panels to the receivers. See Horvarth, col. 1, lines 54-64. The prefabricated support is left alone once the floor panels have been assembled.

Conversely, the shoring posts of the present invention are adjusted under load. See page 2, lines 28-30; page 4, lines 5-6, 9-15. The double washer system of the present invention is intended to relieve the pressure on the wing nut that must be adjusted after the concrete has been poured. Claim 4 recites a reduced friction coupling for reducing the force required to retract the nut under load. The Hovarth invention does not describe, teach, or suggest such a reduced friction coupling.

As described above, the Mollet patent does not describe using double washers located above the nut, as positively claimed in claims 4-8. The Mollet patent also does not disclose using two washers to create a low-friction coupling and relieve the load on the nut.

In addition, claims 10 and 11 have been added to more particularly point out and claim the invention.

Accordingly, the purpose of the claimed invention is not taught nor suggested by the cited references, nor is there any suggestion or teaching that would motivate one skilled in the relevant art to combine the references in a manner that would meet the purpose of the claimed invention. Because the cited references, whether considered alone, or in combination with one another, do not teach nor suggest the purpose of the claimed invention, Applicant respectfully submits that the claimed invention patentably distinguishes over the prior art, including the art cited merely of record.

Based on the foregoing, Applicant respectfully submits that claims 1-11 are in condition for allowance at this time, patentably distinguishing over the cited prior art. Accordingly, reconsideration of the application and passage to allowance are respectfully solicited.

The Examiner is respectfully urged to call the undersigned attorney at (515) 288-2500 to discuss the claims in an effort to reach a mutual agreement with respect to claim limitations in the present application which will be effective to define the patentable subject matter if the present claims are not deemed to be adequate for this purpose.

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Respectfully submitted,



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